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Neutral on SB 495 & SB 497

Senate Public Health & Welfare Committee March 16, 2016
Chairman O'Donnell and members,

Good afternoon, I am Kathy Ostrowski, Legislative Director of Kansans for Life.

I have reviewed the relevant portions of the Alvarez & Marsal state audit (pg 193- 204) that led to the drafting of SB 495 and SB 497.

1-
SB 495 seeks to cut Medicaid costs by eliminating NICU (Neonatal Intensive Care Unit) spending caused through elective early deliveries (EED) that produce under-aged, underweight babies.

- A & M points to the South Carolina pilot program which lowered NICU costs when EEDs were stopped.
- A & M cites Kansas hospital "hard stop" programs already forbidding EEDs, based on the accepted premise that pre-term delivery should really only ever be performed for maternal/fetal medical reasons, not ELECTIVE ones.

KFL did offer a suggested one-word adjustment for clarity on SB 495, (line 6: "delivery" to replace "procedure"). KFL is neutral on that bill, but it does logically appear to accomplish savings by not paying for unjustifiable EEDs.

2-

A & M suggests that "hassle-free" access continue for weekly progesterone shots (P17) to women who need it and have had a prior pre-term delivery. A & M also encourages more "Baby-Friendly" certified hospitals with increased Breastfeeding education. There's certainly nothing controversial in those policies.

3-

Apart from the halt to elective early deliveries (EED) A & M repeatedly suggests reducing the number of NICU admissions and the average length of stay. This needs clarification. And, A& M also suggests pre-and early term birth rates are reduced through improved risk identification. Both of those ideas show up in SB 497.

First, it appears that rationed care is potentially being urged in the NICU because absolutely no data is given of how many "non-EED" babies are being sent to NICU and kept "too long." Neither is any data offered for how those decisions about reduced NICU-care are to be made.

Second, the idea that risk identification will automatically make the "medically-necessary" pre-term birth babies disappear from the NICU rolls needs to be addressed. How exactly would that happen and where's the proof?

Under the most auspicious circumstances-- where the pregnancy is not so advanced so that the effects of the "identified" risk might be mitigated by successful completion of a treatment program (and that is not a sure thing, by far)— one could reasonably expect that some babies originally at risk would be delivered at term without NICU.

But that ignores that a large portion of pregnant women most needing intervention are not seeking pre-natal care at all, much less early. Benefits of pre-natal visits, aside from vitamins and diagnostics, do not eliminate bad actions outside the office visits.

Mandated risk-screening always presents the situation that a woman-- told that her unborn baby faces a medically fragile future-- could be pushed to abortion. Unlike some states, Kansas does not arrest or incarcerate pregnant addicts, nor force them into treatment programs. If we did-- abortion would be a "get-out-of jail-free card."

And screening for domestic abuse, while meritorious, doesn't guarantee it will end.

In fact, abortion has been used as a solution to abuse, according to a professor from the pro-abortion Bixby Center for Global Reproductive Health at the University of California/San Francisco. Diana Greene Foster testified March 15 (yesterday) to the U.S. Senate Judiciary Committee that women get abortions:

> *"…to exit abusive relationships; they experience a sharp decrease in violence from the man involved, whereas women who carry the pregnancy to term experience no such decrease… one in twenty report physical violence from the man involved in the pregnancy in the six months prior to seeking an abortion."* [Attachment 1]

SB 497 makes no reference to the important statutes enacted in 1992 that already govern KDHE's outreach to the public and medical profession about the effects of tobacco, alcohol and drug use during pregnancy. [Attachment 2: K.S.A. 65-1,160 thru 1,167]

It is daunting for a physician to navigate serving pregnant women with serious addictions. Kansas law currently requires, *"accurate drug history be taken*" while providing, *"There shall be no civil or criminal cause of action against a health care provider related to the rendering or failure to render any service under this section."*

Should Kansas help pregnant women find medical counsel for addiction—certainly! Will a mandatory screening of risks result in improved maternal health? It can. But will it lead to a direct reduction in NICU use? Maybe… but few facts are in evidence.

Pre-term births continue to skyrocket in western countries, particularly in the United States, correlated to "abortion on demand." It is settled science that women with one or more induced abortions have a significantly higher rate of preterm birth and low birth-weight babies, due to weakening of the cervix, uterine scar tissue and infection from the abortion. This is why a modest warning is part of the KDHE Women's Right to Know materials. (see pg 26, http://www.womansrighttoknow.org/download/Handbook_English.pdf) The disproportionate pre-term rate in U.S. minority communities closely matches their disproportionately higher abortion rate. Question: If a KDHE medical profile for pre-term delivery currently exists, does it include past induced abortion as a risk factor?

In conclusion, KFL believes that threading this needle is tricky. In the current 1992 "carrot and not a stick" approach, KDHE provides physicians with risk assessment profiles and pregnant women seeking treatment are to be fast-tracked to the head of the line for local treatment with a 72-hour intake.

No NICU savings appear guaranteed by SB 497, and many concerns remain.

Thank you.

March 15, 2016: Testimony for the U.S. Senate Judiciary Committee Hearing

https://www.judiciary.senate.gov/imo/media/doc/03-15-16%20Foster%20Testimony.pdf

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Excerpt:

"We also find that some women seeking abortion do so out of a concern for their physical safety from an abusive partner. Many women seeking abortion care have poor relationships with the man involved and one in twenty report physical violence from the man involved in the pregnancy in the six months prior to seeking an abortion. [9]
Women who are able to get their abortions are able to exit abusive relationships; they experience a sharp decrease in violence from the man involved, whereas women who carry the pregnancy to term experience no such decrease. [10] They continue to be exposed to abuse."

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9 Chibber KS, Biggs MA, Roberts SCM, Foster DG The Role of Intimate Partners in Women's Reasons for Seeking Abortion.Women's Health Issues 24-1 (2014) e131–e138.

10 Roberts SCM, Biggs MA, Chibber KS, Gould H, Rocca CH, Foster DG. Risk of Violence from the Man Involved in the Pregnancy after Receiving or Being Denied an Abortion. BMC Medicine. 2014 Sept. 12:144

PERTINENT KANSAS LAW

65-1,160. Public awareness program on effects of tobacco, alcohol, drugs. (a) **The secretary of health and environment shall conduct an ongoing public awareness campaign directed to both men and women regarding the preconceptual and perinatal effects of the use of tobacco, the use of alcohol and the use of any controlled substance** as defined in schedule I, II or III of the uniform controlled substances act for nonmedical purposes.

(b) This section shall take effect and be in force from and after January 1, 1993.
History: L. 1992, ch. 294, § 2; May 28.

65-1,161. Educational materials and guidance for health care providers; services available from local health departments; effects of **tobacco, alcohol, drugs**. (a) The secretary of health and environment shall provide educational materials and guidance to health care professionals who provide health services to pregnant women for the purpose of assuring accurate and appropriate patient education. **Such materials and guidance shall address the services which are available to pregnant women from local health departments and the perinatal effects of the use of tobacco, the use of alcohol and the use of any controlled substance** as defined in schedule I, II or III of the uniform controlled substances act for nonmedical purposes.

(b) This section shall take effect and be in force from and after January 1, 1993.
History: L. 1992, ch. 294, § 3; May 28.

65-1,162. Educational program for health care providers regarding drugs. (a) The secretary of health and environment, in collaboration with the secretary for aging and disability services, shall **provide an educational program to health care professionals who provide health care services to pregnant women** for the purpose of:

(1) Assuring accurate and appropriate **patient education regarding the effects of drugs on pregnancy and fetal outcome;**

(2) **taking accurate and complete drug histories**;

(3) **counseling techniques for drug abusing women to improve referral to and compliance with drug treatment programs**; and

(4) other additional topics as deemed necessary.

(b) This section shall take effect and be in force from and after January 1, 1993.
History: L. 1992, ch. 294, § 4; L. 2014, ch. 115, § 244; July 1.

65-1,163. **Identification and referral of pregnant women at risk for prenatal substance abuse**. (a) The secretary of health and environment shall develop a risk assessment profile to assist health care providers screen pregnant women for prenatal substance abuse.

(b) Any health care provider who identifies **a pregnant woman who is at risk for prenatal substance abuse may refer such woman with her consent to the local health department for service coordination** by providing such woman's name to the local health department or the Kansas department of health and environment within five working days.

(c) There shall be **no civil or criminal cause of action against a health care provider related to the rendering or failure to render any service** under this section.

(d) Referral and associated documentation provided for in this section **shall be confidential and shall not be used in any criminal prosecution.**

(e) The **consent required by subsection (b) shall be deemed a waiver of the physician-patient privilege solely for the purpose of making the report** pursuant to subsection (b).

(f) This section shall take effect and be in force from and after January 1, 1993.
History: L. 1992, ch. 294, § 5; May 28.

65-1,164. Same; service coordination for woman and family. (a) Upon referral pursuant to subsection (b) of K.S.A. 65-1,163, the local health department shall **offer service coordination to the pregnant woman and her family.** The local health department shall coordinate social services, health care, mental health services and needed education and rehabilitation services. **Service coordination shall be initiated within 72 hours of referral**.

(b) This section shall take effect and be in force from and after January 1, 1993.
History: L. 1992, ch. 294, § 6; May 28.

65-1,165. Same; referred pregnant woman first priority user of treatment through the Kansas department for aging and disability services. A **pregnant woman referred for substance abuse treatment shall be a first priority user of substance abuse treatment available through aging and disability services. All records and reports regarding such pregnant woman shall be kept confidential.** The secretary for aging and disability services shall ensure that **family oriented substance abuse treatment** is available. Substance abuse treatment **facilities which receive public funds shall not refuse to treat women solely because they are pregnant**.
History: L. 1992, ch. 294, § 7; L. 2014, ch. 115, § 245; July 1.

65-1,166. Toll free information line. (a) The secretary of health and environment shall maintain **a toll free information line for the purpose of providing information on resources for substance abuse treatment and for assisting with referral for substance abusing pregnant women.**

(b) This section shall take effect and be in force from and after January 1, 1993.
History: L. 1992, ch. 294, § 8; May 28

65-1,167. Construction of act. This act [*] shall not be construed in any way to create any new programs.
History: L. 1992, ch. 294, § 12; May 28.

*** Act includes 65-1,159 thru 65-1,167, 75-3717, 75-3721.**